



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-995]

Grain-Oriented Electrical Steel from the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

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SUPPLEMENTARY INFORMATION

The Petition

On September 18, 2013, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of grain-oriented electrical steel (GOES) from the People's Republic of China (PRC), filed in proper form, on behalf of AK Steel Corporation (AK Steel), Allegheny Ludlum, LLC (Allegheny Ludlum), as well as the United Steelworkers, which represents employees of Allegheny Ludlum that are engaged in the production of GOES in the United States (collectively, the petitioners).<sup>1</sup> The CVD petition was accompanied by an antidumping duty (AD) petition with respect to seven countries.<sup>2</sup> The

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<sup>1</sup> See Petition for the Imposition of Countervailing Duties on imports of Grain-Oriented Electrical Steel from the People's Republic of China, dated September 18, 2013 (CVD Petition or Petition).

<sup>2</sup> See Petition for the Imposition of Antidumping Duties on imports of Grain-Oriented Electrical Steel from the People's Republic of China, the Czech Republic, the Federal Republic of Germany, Japan, the Republic of Korea,

petitioners are domestic producers of GOES. On September 23, 2013, the Department requested information and clarification for certain portions of the Petitions.<sup>3</sup> The petitioners filed their response to this request on September 26, 2013.<sup>4</sup>

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that the Government of the PRC (GOC) is providing countervailable subsidies (within the meaning of sections 701 and 771(5) of the Act) with respect to imports of GOES from the PRC, and that imports of GOES from the PRC are materially injuring, and threaten material injury to, the domestic industry producing GOES in the United States. The Department finds that the petitioners filed the Petition on behalf of the domestic industry because the petitioners are interested parties as defined in sections 771(9)(C) and (D) of the Act, and that the petitioners have demonstrated sufficient industry support with respect to the initiation of the investigation the petitioners are requesting.<sup>5</sup>

#### Period of Investigation

The period of investigation is January 1, 2012, through December 31, 2012.

#### Scope of Investigation

The product covered by this investigation is GOES from the PRC. For a full description of the scope of this investigation, *see* “Scope of Investigation” at Appendix I of this notice.

#### Comments on Scope of Investigation

During our review of the Petition, the Department issued questions to, and received responses from, the petitioners pertaining to the proposed scope in order to ensure that the scope

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Poland, and the Russian Federation , dated September 18, 2013 (AD Petition) (collectively referred to as “Petitions”).

<sup>3</sup> *See* Petition for the Imposition of Countervailing Duties on Grain-Oriented Electrical Steel from the People’s Republic of China: Supplemental Questions, dated September 23, 2013.

<sup>4</sup> *See* Petitioners’ Response to Commerce Department Request for Petition Clarifications - Grain-Oriented Electrical Steel from the People’s Republic of China, dated September, 26, 2013.

<sup>5</sup> *See* “Determination of Industry Support for the Petition” below.

language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief. As discussed in the Preamble to the regulations,<sup>6</sup> we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages interested parties to submit such comments by 5:00 p.m. EST on November 13, 2013. All comments must be filed on the records of the PRC CVD investigation, as well as the concurrent PRC, Czech Republic, Germany, Japan, Republic of Korea, Poland, and the Russian Federation (Russia) AD investigations.

#### Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). An electronically filed document must be received successfully in its entirety by the time and date noted above. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 1870, Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above.<sup>7</sup>

#### Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the GOC for consultations with respect to the Petition.<sup>8</sup> Consultations were held with the GOC on October 21, 2013.<sup>9</sup> The memorandum is on file electronically via IA ACCESS.<sup>10</sup>

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<sup>6</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

<sup>7</sup> See <http://www.gpo.gov/fdsys/pkg/FR-2011-07-06/pdf/2011-16352.pdf> for details of the Department's Electronic Filing Requirements, which went into effect on August 5, 2011. Information regarding IA ACCESS assistance can be found at <https://iaaccess.trade.gov/help.aspx> and a handbook can be found at <https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

<sup>8</sup> See Letter of Invitation Regarding Countervailing Duty Petition on Grain-Oriented Electrical Steel from the People's Republic of China, dated September 19, 2013.

### Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The United States International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time

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<sup>9</sup> See Ex-Parte Memorandum, “Consultations with Official from the Government of the People’s Republic of China on the Countervailing Duty Petition regarding Grain-Oriented Electrical Steel from the People’s Republic of China,” dated October 22, 2013.

<sup>10</sup> See *supra* note 7 for information pertaining to IA ACCESS.

and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>11</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that GOES constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>12</sup>

In determining whether the petitioners have standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in Appendix I of this notice. To establish industry support, the petitioners provided their own production of the domestic like product in 2012.<sup>13</sup> The petitioners state that there are no other known producers of GOES in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.<sup>14</sup>

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<sup>11</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>12</sup> For a discussion of the domestic like product analysis in this case, see Countervailing Duty Investigation Initiation Checklist: Grain-Oriented Electrical Steel from the People’s Republic of China (PRC CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Petitions Covering Grain-Oriented Electrical Steel from the People’s Republic of China, Czech Republic, Germany, Japan, the Republic of Korea, Poland, and the Russian Federation. These checklists are dated concurrently with this notice and on file electronically via IA ACCESS. Documents filed via IA ACCESS are also accessible in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

<sup>13</sup> See Volume I of the Petition, at 4.

<sup>14</sup> *Id.* at 1-3.

Our review of the data provided in the Petition and other information readily available to the Department indicates that the petitioners have established industry support.<sup>15</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>16</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.<sup>17</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.<sup>18</sup> Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that the petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and (D) of the Act and they have demonstrated sufficient industry support with respect to the CVD investigation that they are requesting the Department initiate.<sup>19</sup>

### Injury Test

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the

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<sup>15</sup> See PRC CVD Initiation Checklist, at Attachment II.

<sup>16</sup> See section 702(c)(4)(D) of the Act; *see also* PRC CVD Initiation Checklist, at Attachment II.

<sup>17</sup> See PRC CVD Initiation Checklist, at Attachment II.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

#### Allegations and Evidence of Material Injury and Causation

The petitioners allege that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. The petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>20</sup>

The petitioners contend that the industry's injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenues; decline in production, capacity utilization, and shipments; reduced employment variables; and decline in financial performance.<sup>21</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>22</sup>

#### Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. In the Petition, the petitioners allege that producers/exporters of GOES in the PRC benefited from countervailable subsidies bestowed by the government. The Department has examined the

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<sup>20</sup> See Volume I of the Petition, at 15-16 and Exhibit GENERAL-6.

<sup>21</sup> See Volume I of the Petition, at 13-30 and Exhibits GENERAL-4 and GENERAL-6 through GENERAL-12.

<sup>22</sup> See PRC CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Grain-Oriented Electrical Steel from the People's Republic of China, Czech Republic, Germany, Japan, the Republic of Korea, Poland, and the Russian Federation.

Petition and finds that it complies with the requirements of section 702(b)(1) of the Act.

Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of GOES from the PRC receive countervailable subsidies from the government.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on certain alleged programs. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* PRC CVD Initiation Checklist.

A public version of the initiation checklist is available on IA ACCESS and at <http://enforcement.trade.gov/ia-highlights-and-news.html>.

#### Respondent Selection

For this investigation, the Department will release U.S. Customs and Border Protection (CBP) data for U.S. imports of subject merchandise during the period of investigation under the following Harmonized Tariff Schedule of the United States numbers: 7225.11.0000, 7226.11.1000, 7226.11.9030, and 7226.11.9060. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO shortly after the announcement of this case initiation. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found at <http://enforcement.trade.gov/apo/>.

Interested parties may submit comments regarding the CBP data and respondent selection by 5:00 p.m. EST on the seventh calendar day after publication of this notice. Comments must be filed in accordance with the filing requirements stated above. If respondent selection is necessary, we intend to base our decision regarding respondent selection upon comments received from interested parties and our analysis of the record information within 20



days of publication of this notice.

#### Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the petitions have been provided to the GOC via IA ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the petition to each known exporter (as named in the petition), as provided in 19 CFR 351.203(c)(2).

#### ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

#### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of GOES from the PRC are materially injuring, or threatening material injury to, a U.S. industry.<sup>23</sup> A negative ITC determination will result in the investigation being terminated with respect to that country; otherwise, this investigation will proceed according to statutory and regulatory time limits.

#### Submission of Factual Information

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule*, 78 FR 21246 (April 10, 2013), which modified two regulations related to AD and CVD proceedings: the definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of

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<sup>23</sup> See section 703(a) of the Act.

remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013, and thus are applicable to this investigation. Please review the final rule, available at <http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt>, prior to submitting factual information in this investigation.

#### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>24</sup> Parties are hereby reminded that the Department issued a final rule with respect to certification requirements, effective August 16, 2013. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.<sup>25</sup> The Department intends to reject factual

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<sup>24</sup> See section 782(b) of the Act

<sup>25</sup> See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also the frequently asked questions regarding the *Final Rule*, available at the following: [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

submissions if the submitting party does not comply with the applicable revised certification requirements.

#### Extension of Time Limits

On September 20, 2013, the Department published *Extension of Time Limits, Final Rule*, 78 FR 57790 (September 20, 2013), which modified one regulation related to AD and CVD proceedings regarding the extension of time limits for submissions in such proceedings (19 CFR 351.302(c)). These modifications are effective for all segments initiated on or after October 21, 2013, and thus are applicable to this investigation. Please review the final rule, available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm> prior to requesting an extension.

#### Tolling Deadlines

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013. *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Shutdown of the Federal Government” (October 18, 2013). Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department’s practice, the deadline will become the next business day. Accordingly, the revised deadline for the initiation of this investigation is now October 24, 2013.

#### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR

3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to section 777(i) of the Act.

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

\_October 24, 2013\_ \_\_\_\_\_  
Date

## Appendix I

### Scope of the Investigation

The scope of this investigation covers grain-oriented silicon electrical steel (GOES). GOES is a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths. The GOES that is subject to this investigation is currently classifiable under subheadings 7225.11.0000, 7226.11.1000, 7226.11.9030, and 7226.11.9060 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

[FR Doc. 2013-26002 Filed 10/30/2013 at 8:45 am; Publication Date: 10/31/2013]